



COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS	REDEVELOPMENT AGENCY
Dennis Kennedy, Mayor	Dennis Kennedy, Chair
Greg Sellers, Mayor Pro Tempore	Greg Sellers, Vice-Chair
Hedy L. Chang, Council Member	Hedy L. Chang, Agency Member
Larry Carr, Council Member	Larry Carr, Agency Member
Steve Tate, Council Member	Steve Tate, Agency Member

WEDNESDAY, DECEMBER 17, 2003

AGENDA

JOINT MEETING

CITY COUNCIL SPECIAL AND REGULAR MEETING

and

REDEVELOPMENT AGENCY SPECIAL MEETING

5:00 P.M.

A Special Meeting of the City Council and Redevelopment Agency is called at 5:00 P.M. for the Purpose of Conducting a Workshop and Closed Sessions.

Dennis Kennedy, Mayor/Chairman

CALL TO ORDER

(Mayor/Chairperson Kennedy)

ROLL CALL ATTENDANCE

(City Clerk/Agency Secretary Torrez)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2

(City Clerk/Agency Secretary Torrez)

5:00 P.M.

City Council Action

WORKSHOP:

	Time Estimate		Page
1.	60 Minutes	<u>SERVICE LEVEL STANDARDS</u> <u>Recommended Action(s):</u> <u>Conduct</u> a Workshop and <u>Provide</u> Direction on the Mix and Level of Services for Inclusion in the Five Year Financial Plan.	1

6:00 P.M.

City Council Action and Redevelopment Agency Action

CLOSED SESSION:

	1.
	<u>CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION</u>
Authority:	Government Code Sections 54956.9(b) & (c)
Number of Potential Cases:	3
	2.
	<u>EXISTING LITIGATION:</u>
Legal Authority:	Government Code 54956.9(a)
Case Title:	Bob Lynch Ford, Inc. v. Timothy Paulus, et al
Case Name/No.:	Santa Clara County Superior Court Case No. 1-03-CV 001657
Attendees:	City Manager, City Attorney

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

RECONVENE

CLOSED SESSION ANNOUNCEMENT

7:00 P.M.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORT

Mayor Kennedy

CITY COUNCIL SUB-COMMITTEE REPORTS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY
COUNCIL/REDEVELOPMENT AGENCY.**

City Council Action

CONSENT CALENDAR:

ITEMS 2-21

The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

Time Estimate

Page

Consent Calendar: 1 - 10 Minutes

2. **NOVEMBER 2003 CITY OF MORGAN HILL FINANCE & INVESTMENT REPORT..... 21**
Recommended Action(s): Accept and File Report.
3. **AB1600 DEVELOPMENT IMPACT FEE REPORT FOR FISCAL YEAR 2002-2003..... 47**
Recommended Action(s): Accept and File the AB1600 Development Impact Fee Report for the 2002-2003 Fiscal Year.
4. **SUBDIVISION, SD-03-11: COCHRANE-COYOTE ESTATES..... 59**
Recommended Action(s): Take No Action, Thereby Concurring with the Planning Commission's Decision Regarding Approval of the Subdivision Map.
5. **EXTENSION OF CONTRACT FOR CONSULTANT PLANNING SERVICES..... 85**
Recommended Action(s): Authorize the City Manager to Execute an Extension of the Contract with Pacific Municipal Consultants (PMC) for Contract Planning Services.
6. **COMMUNITY PLAYHOUSE EVENT ATTENDANT FEE..... 89**
Recommended Action(s): Pass On the Cost of an Event Attendant for the Playhouse for All Rentals (Excluding Lease Agreements and City Use).

Time Estimate
Consent Calendar: 1 - 10 Minutes

Page

7. **AWARD OF PROFESSIONAL SERVICES CONTRACT FOR TRAFFIC SIGNAL DESIGN AT TENNANT AVENUE/SOUTHBOUND HIGHWAY 101 OFF-RAMP INTERSECTION** 93
Recommended Action(s):
 1. **Appropriate** \$160,000 in Additional Funds from Unappropriated Traffic Impact Fund Balance to This Project for Construction of Pedestrian Facilities, Road Widening and Additional Engineering; and
 2. **Authorize** the City Manager to Execute a Consultant Agreement for Design and Preparation of Plans, Specifications and Estimates with Pinnacle Traffic Engineering, Subject to Approval by the City Attorney.

8. **AQUATICS CENTER PROJECT – NOVEMBER CONSTRUCTION PROGRESS REPORT** 99
Recommended Action(s): Information Only.

9. **APPROVAL OF REIMBURSEMENT AGREEMENT WITH SOUTH COUNTY HOUSING (JASMINE SQUARE APARTMENT COMPLEX)** 107
Recommended Action(s):
 1. **Approve** an Appropriation of \$155,684 from the Current Year Unappropriated Traffic Impact Fee Fund Balance for Monterey Road Median Reimbursement;
 2. **Approve** the Reimbursement Agreement; and
 3. **Authorize** the City Manager to Sign the Reimbursement Agreement on Behalf of the City with South County Housing.

10. **ACCEPT AS COMPLETE THE 2002-2003 PAVEMENT RESURFACING PROJECT** 117
Recommended Action(s):
 1. **Accept** as Complete the Construction of the 2002-2003 Street Resurfacing and Reconstruction Project in the Amount of \$750,961.05;
 2. **Direct** the City Clerk to File the Notice of Completion with the County Recorder's office; and
 3. **Authorize** the Carry Over into CIP Project #519096 the Combined Total of \$229,471 from Both the Street Fund and RDA Fund Previously Budgeted but Unspent in Fiscal Year 2002-2003.

11. **APPROVAL OF SUBDIVISION IMPROVEMENT AGREEMENT WITH DEWEY AND CAROLYN KOSICH (APN 764-32-024)** 121
Recommended Action(s):
 1. **Approve** the Subdivision Agreement and Improvement Plans;
 2. **Authorize** the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and
 3. **Authorize** the Recordation of the Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.

12. **APPROVAL OF CONTRACT FOR INTERIM MAINTENANCE SUPERVISOR** 133
Recommended Action(s):
 1. **Approve** the Agreement; and
 2. **Authorize** the City Manager to Execute a Contract to Continue the Contract Services of an Interim Maintenance Supervisor.

13. **LIBRARY COUNCIL SUB-COMMITTEE RECOMMENDATION REGARDING SUBMITTING GRANT FOR ROUND THREE OF THE STATE LIBRARY BOND GRANT PROGRAM** 141
Recommended Action(s): To Apply for Round Three of the State Library Bond Grant Program Due January 16, 2004.

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	
14.	<u>APPROVAL OF AGREEMENT WITH MORGAN HILL UNIFIED SCHOOL DISTRICT AND COUNTY OF SANTA CLARA FOR COOPERATION IN IMPROVEMENT OF BURNETT AVENUE</u>	143
	<u>Recommended Action(s): Approve</u> Agreement for Cooperation in Improvement of Burnett Avenue Between City, School District, and County.	
15.	<u>MORGAN HILL POLICE FACILITY</u>	149
	<u>Recommended Action(s): Award</u> Construction Contract to Stevelle Construction Company Incorporated in the Amount of \$1,699,000 for the Interior Construction of the New Morgan Hill Police Facility, Plus a \$114,000 Change Order Contingency; for a Total Price of \$1,813,000.	
16.	<u>ART EXHIBIT POLICY FOR THE COMMUNITY AND CULTURAL CENTER</u>	153
	<u>Recommended Action(s): Direct</u> Staff to Implement the Policies and Art Exhibition Agreement as Presented.	
17.	<u>THIRD AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF SHUTE, MIHALY & WEINBERGER, LLP</u>	159
	<u>Recommended Action(s): Authorize</u> the City Manager to Execute a Third Amendment to Agreement with the Law Firm of Shute, Mihaly & Weinberger, LLP.	
18.	<u>RESOLUTION AMENDING THE RECORDS RETENTION SCHEDULE FOR THE CITY OF MORGAN HILL</u>	177
	<u>Recommended Action(s): Adopt</u> Resolution Amending the City's Record Retention Schedule.	
19.	<u>ADOPT ORDINANCE NO. 1642, NEW SERIES</u>	187
	<u>Recommended Action(s): Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1642, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA-03-05: DEWITT – MARRAD GROUP (APN 773-08-015).	
20.	<u>ADOPT ORDINANCE NO. 1643, NEW SERIES</u>	191
	<u>Recommended Action(s): Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1643, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1618, NEW SERIES, TO AMEND DEVELOPMENT AGREEMENT DA-02-09 FOR APPLICATION MMP-02-02: DEWITT – MARQUEZ TO ALLOW FOR A THREE-MONTH EXTENSION OF TIME FOR FINAL MAP SUBMITTAL AND A SIX-MONTH EXTENSION OF TIME FOR BUILDING PERMIT SUBMITTAL FOR FOUR (4) BUILDING ALLOTMENTS AWARDED IN THE 2002 RDCS COMPETITION (APN 773-08-014).	
21.	<u>APPROVE MINUTES OF SPECIAL CITY COUNCIL MEETING FOR DECEMBER 5, 2003</u>	213

Redevelopment Agency Action

CONSENT CALENDAR:

ITEMS 22-23

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	
22.	<u>NOVEMBER 2003 REDEVELOPMENT AGENCY FINANCE & INVESTMENT REPORT</u> <u>Recommended Action(s):</u> <u>Accept</u> and <u>File</u> Report.	215
23.	<u>DOWNTOWN REQUEST FOR CONCEPTS</u> <u>Recommended Action(s):</u> <u>Accept</u> Status Report.	225

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

ITEMS 24-26

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	
24.	<u>AGREEMENTS WITH JOHNSON LUMBER</u> <u>Recommended Action(s):</u> <u>Authorize</u> the City Manager/Executive Director to do Everything Necessary and Appropriate to Execute and Implement the Agreements with Johnson Lumber, Including Making Modifications to the Agreements Subject to City Attorney/General Counsel Review and Approval, for a Loan of \$230,000 to be Repaid From Sales Tax Revenue Generated by the Project.	231
25.	<u>APPROVE MINUTES OF JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING FOR DECEMBER 3, 2003</u>	235
26.	<u>ANNUAL FINANCIAL REPORTS FOR FISCAL YEAR 2002-2003</u> <u>Recommended Action(s):</u> 1. <u>Accept</u> and <u>File</u> the Comprehensive Annual Financial Report for the Fiscal Year 2002-2003; and 2. <u>Accept</u> and <u>File</u> the Financial Statements for the Redevelopment Agency for Fiscal Year 2002-2003.	265

City Council Action (Continued)

CONSENT CALENDAR:

ITEMS 27

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	
27.	<u>SUBDIVISION, SD-03-01: McLAUGHLIN – SOUTH COUNTY HOUSING (JONES)</u> <u>Recommended Action(s):</u> <u>Take No Action</u> , Thereby Concurring with the Planning Commission's Decision Regarding Approval of the Subdivision Map.	267

City Council Action

PUBLIC HEARINGS:

	Time Estimate		Page
28.	15 Minutes	<u>ZONING AMENDMENT, ZA-02-16: DEWITT-MARQUEZ; SUBDIVISION, SD-02-11: DEWITT-MARQUEZ; AND SUBDIVISION SD-03-05: DEWITT-MARRAD GROUP</u> (Continued from 12/3/03)..... Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <u>Motion to Waive</u> the Reading in Full of ZA-02-16 Zoning Amendment Ordinance. Action- <u>Motion to Introduce</u> ZA-02-16 Zoning Amendment Ordinance by Title Only. (Roll Call Vote) Action- <u>Adopt</u> Resolution Approving the Five Lot Tentative Map. Action- <u>Adopt</u> Resolution Approving the Four Lot Parcel Map.	291
29.	10 Minutes	<u>GENERAL PLAN AMENDMENT GPA-03-05; URBAN SERVICE AREA USA-03-05; ZONING AMENDMENT ZA-03-17: BURNETT-MORGAN HILL UNIFIED SCHOOL DISTRICT SOBRATO HIGH SCHOOL</u> To IT/JET for approval..... Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <u>Adopt</u> Resolution Approving General Plan and Urban Growth Boundary Amendment. Action- <u>Adopt</u> Resolution Approving Urban Service Area Amendment. Action- <u>Motion to Waive</u> the Reading in Full of Prezoning. Action- <u>Motion to Introduce</u> Prezoning Ordinance by Title Only. (Roll Call Vote)	347
30.	5 Minutes	<u>DEVELOPMENT AGREEMENT, DA-03-10: COCHRANE-COYOTE ESTATES</u> Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <u>Motion to Waive</u> the Reading in Full of Development Agreement Ordinance. Action- <u>Motion to Introduce</u> Development Agreement Ordinance by Title Only. (Roll Call Vote)	373
31.	10 Minutes	<u>DEVELOPMENT AGREEMENT AMENDMENT DAA-00-05: MALAGUERRA-MANCIAS</u> Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <u>Motion to Waive</u> the Reading in Full of DAA-00-05 Development Agreement Amendment Ordinance. Action- <u>Motion to Introduce</u> DAA-00-05 Development Agreement Amendment Ordinance by Title Only. (Roll Call Vote)	401

PUBLIC HEARINGS:

	Time Estimate		Page
32.	10 Minutes	<u>DEVELOPMENT AGREEMENT AMENDMENT DAA-00-08: BERKSHIRE-SINGH</u> Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <u>Adopt</u> Resolution to Deny Exception to Loss of Building Allocation (ELBA) Request. <u>OR</u> Action- <u>Motion to Waive</u> the Reading in Full of Ordinance Approving ELBA. Action- <u>Motion to Introduce</u> Ordinance Approving ELBA by Title Only. (Roll Call Vote)	413
33.	7 Minutes	<u>GENERAL PLAN AMENDMENT GPA-03-06; ZONING AMENDMENT ZA-03-02; DEVELOPMENT AGREEMENT DA-03-02; McLAUGHLIN/CENTRAL-SOUTH COUNTY HOUSING (JONES)</u> Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <u>Approve</u> Mitigated Negative Declaration. Action- <u>Adopt</u> Resolution Approving General Plan Amendment. Action- <u>Motion to Waive</u> the Reading in Full of Zoning Amendment Ordinance. Action- <u>Motion to Introduce</u> Zoning Amendment Ordinance by Title Only. (Roll Call Vote) Action- <u>Motion to Waive</u> the Reading in Full of Development Agreement Ordinance. Action- <u>Motion to Introduce</u> Development Agreement Ordinance by Title Only. (Roll Call Vote)	429
34.	10 Minutes	<u>DEVELOPMENT AGREEMENT AMENDMENT DAA-02-07: SHAFER-BAMDAD</u> Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <u>Motion to Waive</u> the Reading in Full of DAA-02-07 Development Agreement Amendment Ordinance. Action- <u>Motion to Introduce</u> DAA-02-07 Development Agreement Amendment Ordinance by Title Only. (Roll Call Vote)	491

City Council and Redevelopment Agency Action

PUBLIC HEARINGS:

	Time Estimate		Page
35.	60 Minutes	<u>ZONING AMENDMENT ZA-03-10/SUBDIVISION SD-03-08: WATSONVILLE-SOUTH COUNTY HOUSING</u> Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <u>Provide Direction</u> to Staff and Applicant Regarding Appropriate Project Modifications. Action- <u>Continue</u> to February 18, 2004.	509

PUBLIC HEARINGS:

	Time Estimate		Page
36.	5 Minutes	<u>TRAIN DEPOT BUILDING RENTAL – CAFÉ Y’A BON</u>	521
		Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. <u>City Council</u> Action- <u>Adopt</u> City Council Resolution Approving Lease Agreement (the “Lease”) with Café Y’A Bon, an Espresso Bar LLC (“Y’A Bon”); <u>Redevelopment Agency</u> Action- <u>Adopt</u> Redevelopment Agency Resolution Approving Lease Agreement (the “Lease”) with Café Y’A Bon, an Espresso Bar LLC (“Y’A Bon”); and Action- <u>Authorize</u> the Executive Director to Execute a Loan Agreement (the “Loan) in the Amount of \$20,295 with Y’A Bon, and Do Everything Necessary to Implement the Loan and Related Agreements.	

City Council Action

OTHER BUSINESS:

	Time Estimate		Page
37.	15 Minutes	<u>COMMUNITY INDOOR RECREATION CENTER – SENIOR AND YOUTH BUILDING SPACES AND PROGRAMMING</u>	559
		<u>Recommended Action(s): Receive</u> Staff Report on Senior and Youth Building Spaces and Programming Workshop.	
38.	15 Minutes	<u>REPORT FROM MEMBERS OF THE CITY/SCHOOL LIAISON COMMITTEE REGARDING JOINT PLANNING FOR CITY AND SCHOOL FACILITIES</u>	571
		<u>Recommended Action(s): Approve</u> the Formation of a Joint Planning-Working Group on School and City Facilities.	
39.	5 Minutes	<u>AGREEMENTS FOR FINANCIAL ADVISORY AND BOND COUNSEL SERVICES IN CONNECTION WITH POLICE FACILITY FINANCING</u>	573
		<u>Recommended Action(s):</u> 1. <u>Authorize</u> the City Manager, on behalf of the City, to Enter Into an Agreement with RBC Dain Rauscher Inc. for Financial Advisory Services; and 2. <u>Authorize</u> the City Manager, on Behalf of the City, to Enter Into An Agreement with Richards, Watson & Gershon for Bond Counsel/Disclosure Counsel Services.	

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

ADJOURNMENT